

# In the United States Court of Federal Claims

No. 06-827

Filed: June 28, 2007

TO BE PUBLISHED

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FRANK J. PROCHAZKA,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

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Default Judgment, RCFC 55;

*Pro Se.*

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**Frank J. Prochazka**, Virginia Beach, Virginia, *pro se*.

**Devin A. Wolak**, United States Department of Justice, Civil Division, Washington, D.C., counsel for Defendant.

## MEMORANDUM OPINION AND ORDER

Pursuant to Rule 55(a) of the Rules of the United States Court of Federal Claims (“RCFC”), the court intends to enter default judgment on liability in favor of Plaintiff, pending Plaintiff’s application to this court for such a judgment. *See* RCFC 55(b) (“The party entitled to default shall apply to the court therefor[.]”)

On December 6, 2006, Plaintiff filed a *pro se* Complaint in the United States Court of Federal Claims. On February 5, 2007, Plaintiff filed an Amended Complaint. On that same day, Defendant (“the Government”) filed a Motion for an Enlargement of Time to Answer. On February 6, 2007, the court granted the Government’s Motion for an Enlargement of Time, extending the the deadline to file an Answer to March 5, 2007. On March 6, 2007, the Government filed a second Motion for an Extension of Time to file an answer, seeking an extension to March 26, 2007. On March 12, 2007, the court granted the Government’s Motion. On March 26, 2007, the Government filed a third Motion for Extension of Time. The court granted this Motion, giving the Government an additional four days, through March 30, 2007, to file an Answer.

On March 28, 2007, the Government filed a Motion to Stay Proceedings in this case. On April 16, 2006, Plaintiff filed a Response in opposition. On April 30, 2007, the Government filed a Reply. On May 8, 2007, the court convened a teleconference to discuss the Government’s March 28, 2007 Motion to Stay. On May 9, 2007, pursuant to the Government’s request during the May

8, 2007 teleconference, the court entered an Order withdrawing the Government's March 28, 2007 Motion to Stay.

On June 27, 2007, the court convened a telephone status conference. At that time, the court advised the Government that having failed to file an Answer by the March 30, 2007 deadline, or within a reasonable period after the court's May 9, 2007 Order withdrawing the Government's Motion to Stay, and having failed to advise the court (by telephone, e-mail, or letter) of the reason for the Government's continued negligence, the court had decided that the interests of justice require the entry of default judgment in favor of Plaintiff, because Defendant has "failed to plead or otherwise defend" this lawsuit. *See* RCFC 55(a).

Accordingly, Plaintiff will file an application for default judgment no later than July 13, 2007. The court will convene a telephone status conference on Monday, July 16, 2007 at 2 p.m. to discuss the whether it is necessary to schedule a hearing on damages. *See* RCFC 55(b) ("If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages . . . the court may conduct such hearings or order such references as it deems necessary and proper.")

**IT IS SO ORDERED.**

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SUSAN G. BRADEN  
Judge